

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

FORT WORTH DIVISION

DEC 1 2018

CLERK, U.S. DISTRICT COURT
By _____

ARNULFO RODRIGUEZ
(Petitioner)

v

UNITED STATES OF AMERICA
(Respondant)

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Appeal: 4:18-cv-00876-0
Cr: 4:16-CR-00029-0(04)
Honorable Judge:
REED O'CONNOR USDJ

"MOTION TO RECEIVE DOCUMENTATION FROM THE COURT PURSUANT TO 28
28 U.S.C. §2250".

Comes now Arnulfo Rodriguez Pro-Se Petitioner and In Forma Pauperis in his action requesting that the Court grant his Motion to Receive Documentation from the Court pursuant to 28 U.S.C. § 2250 due to his indigent status.

Petitioner Arnulfo Rodriguez request this and all other pleadings and submissions he presents for consideration in this Action be construed and considered under the auspices established by and pursuant to Haines v. Kerner 404 U.S. 519, 30 L.Ed 2d 652, 92 S.Ct. 594 (1972) wherein it is stated by the justices in part: "Pro Se litigant's pleadings are to be construed liberally, granted great latitude and held to a less stringent standard than that of formal pleadings drafted by attorneys and it is in the interest of justice to do so". The justices went on to opine; "if the court can reasonably read the pleading to state a valid claim on which the litigant could prevail and the judge can see what he is driving at that ought to be enough and it should do so despite the failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction or the litigants' unfamiliarity with pleading requirements". Petitioner herein requests such interpretation.

Movant Arnulfo Rodriguez wish to show the Court that he is in the belief that there is an apparent misunderstanding from the office of the Court, since Deputy Clerk NPK (sic) is informing the Petitioner that he needs to cover the expenses for copies of documents, this on the December 7, 2018

letter as shown on exhibit A.

Even when the movant recognizes being untrained in the art of law, he asserts being entitled to receive documentation without the need to pay for it, as this has been happening throughout his entire case proceedings. As a matter of fact, this is the first time the Petitioner learn of the "need" or obligation to make any kind of payment to the Court for official notifications issued by the same to the Petitioner as:

1. A stamped "filed" copy of Document # 1, which movant believe is a "Motion to receive copies at governments expense and application to proceed In Forma Pauperis", copy of the same provided by the Petitioner to the Clerk's office including a postage paid return addressed envelope.
2. Document # 3: ~~Unknown~~ by the Petitioner.
3. Document # 4: ~~Unknown~~ by Petitioner.
4. Document # 5: Unknown by Petitioner.

all of them out of the civil action above referenced and issued by the Honorable Court sometime in October, November, and perhaps December of 2018 but at not time ever delivered to the Petitioner.

In support of the allegations for his indigent status and claim to continue being recognized as such, Petitioner is attaching exhibit B, whihc is page four of twelve from his criminal docket on his case number 4:16-cr-00029-0-4, document # 3 filed on February 2, 2016 where is clear to confirm that the CJA 20 ordered appointed attorney Robert Herrington as his counsel.

Additionally, Petitioner presents to the Court, copy of the first page of an "Order and Instructions to parties in a Motion Under 28 U.S.C §2255" issued from this Honorable Court

wherein it clearly states: "The Clerk is directed to note on the docket that the In Forma Pauperis application/motion (EFC N° 3) is denied as unnecessary (exhibit C).

Therefore, pursuant to 28 U.S.C. §2250 from the Federal Criminal Code and Rules which states:

Indigent petitioner entitled to documents without cost.

~~If on any~~ application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file if his office as may be required by order of the judge whom the application is pending. (June 25, 1948, c 646, 62 Stat. 966.)

petitioner request the same interpretation on his cause.

Thereupon, Movant express the Court, he is hesitant in regards what the next step he shall take, especially because the time for his response is in due course. However, he is arduously working on putting all together his arguments and pleadings to avoid being dismissed for lack of prosecution.

Petitioner prays this court grant his motion as well as any other action the Honorable Court deems beneficial to him or his cause.

For this, Petitioner forever prays.

This 27th day of December, 2018.

Respectfully.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ N° 53753-177
BOP GILES W. DALBY C.F. (A1-27L)
805 NORTH AVENUE F
POST, TEXAS 79356

V E R I F I C A T I O N

I have read the foregoing "Motion to Receive Documentation from the Court Pursuant to 28 U.S.C §2250) and hereby verefy that the matters alleged herein are true, except as to matters alleged

on information and belief, and as to those, I believe them to be true. I certify under the penalty of perjury that the foregoing is true and correct. Executed at Post, Texas on this December 27, 2018.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ PRO SE

C E R T I F I C A T E O F S E R V I C E

I I certify under the penalty of perjury that the foregoing "Motion to Receive Documentation from The Court Pursuant to 28 U.S.C. §2250" was placed into the prison's mail system, postage prepaid, for service upon this Honorable Court via United States Mail System on December 27, 2018 to the United States District Court Clerk, for the Northern District of Texas, Fort Worth Division at 501 W. 10th Street, Room 310, Fort Worth, Texas 76102. Movant asks this Court's Clerk to serve all other interested parties via electronic notification.

Arnulfo Rodriguez
ARNULFO RODRIGUEZ N° 53753-177
BOP GILES W. DALBY C.F. (A1-27L)
805 NORTH AVENUE F
POST TEXAS 79356

United States District Court
Northern District of Texas

Fort Worth Division

12/7/18

Arnulfo Rodriguez
#53753-177
BOP Giles W Dalby CI
805 N Avenue F
Post, TX 79356

Re: Your correspondence received in the U.S. District Clerk's Office on 12/6/18
Case No./Style: 4:18-cv-00876-O Rodriguez v. USA

Copies of docket sheets and/or documents require prepayment of the copy expense, currently \$0.50 per page. Certification of copies is an additional \$11.00 per document. A summary of the page counts and necessary fees is provided below:

Documents 1, 3, 4, and 5 total 28 pages= \$14.00. You may wish to include a copy of this letter with your payment. The documents and receipt will be mailed to you.

Sincerely,

Deputy Clerk - NPK.

01/15/2016	<u>1</u>	SEALED COMPLAINT (Clerk note: This case is to remain sealed until the defendant has been arrested.) as to Arnulfo Rodriguez (1). (jah) [4:16-mj-00019-BJ] (Entered: 01/15/2016)
01/28/2016		Arrest of Arnulfo Rodriguez (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)
02/01/2016	<u>3</u>	CJA 20 Order appointing attorney. Attorney Robert J Herrington for Arnulfo Rodriguez appointed. This appointment continues through any appeal unless counsel is relieved by court order for good cause shown. Appointed counsel should use the <u>Attorney Timekeeping System</u> immediately and throughout representation in district court. Any work done on an appeal must be billed per circuit instructions. For questions, consult the <u>CJA Attorney Information</u> page or use the <u>directory</u> to contact the appointing judges courtroom deputy. Copies of public documents filed prior to this appointment may be obtained via PACER. (Ordered by Magistrate Judge Jeffrey L Cureton on 2/1/2016) (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)
02/01/2016	4	ELECTRONIC Minute Entry for proceedings held before Magistrate Judge Jeffrey L Cureton: Initial Appearance & Preliminary hearing as to Arnulfo Rodriguez held on 2/1/2016. Date of Arrest: 1/28/2016, Deft executed financial affidavit; o/appointing atty Robert Herrington entered; Deft waives detention hearing; Gov't witness Oscar Huerta sworn & testified as to probable cause; Court finds PC; o/detention pending trial entered; Deft remanded to custody. Attorney Appearances: AUSA - Doug Allen; Defense - Robert Herrington. (Court Reporter: Digital File) (No exhibits) Time in Court - :15. (Interpreter Yovana Gonzalez.) (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)
02/01/2016	<u>5</u>	NOTICE OF ATTORNEY APPEARANCE by Robert J Herrington appearing for Arnulfo Rodriguez (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)
02/01/2016	<u>6</u>	(Document Restricted) CJA 23 Financial Affidavit by Arnulfo Rodriguez (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)
02/01/2016	<u>7</u>	MOTION for Pretrial Detention filed by USA as to Arnulfo Rodriguez (jah) [4:16-mj-00019-BJ] (Entered: 02/02/2016)

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

ARNULFO RODRIGUEZ,**Movant,****v.****UNITED STATES OF AMERICA,****Respondent.**

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**Civil Action 4:18-cv-876-O
(Criminal No. 4:16-cr-029-O (4))**

**ORDER AND INSTRUCTIONS TO PARTIES
IN A MOTION UNDER 28 U.S.C. § 2255**

The United States district clerk for the Northern District of Texas ("the Clerk") has received and filed a motion under 28 U.S.C. § 2255 to vacate, set aside, or correct the sentence imposed against defendant/movant Arnulfo Rodriguez, a person in custody under a judgment of this Court, in the above-styled and-numbered cause. No filing fee shall be required.¹ The motion and all further pleadings shall be styled and numbered as set forth above. The Clerk and the parties shall comply with the following directives as indicated:

SERVICE OF PROCESS. Service upon the United States of America of the motion under 28 U.S.C. § 2255, the memorandum in support thereof, all motions filed in this matter by Defendant, this order, and any other order pertinent to the case shall be served electronically on the United States attorney for the Northern District of Texas.² See Fed. R. Crim. P. 49(B); Fed. R. Civ. P. 5(b)(2)(D).

RESPONSIVE PLEADINGS. The United States attorney shall, within 60 days from the date of this order, file an answer, motion, or other response to the motion under 28 U.S.C. § 2255. An answer shall comply with the provisions of Rule 5 of the Rules Governing § 2255 Cases in the United States District Courts. Any claim that the motion under 28 U.S.C. § 2255 should be dismissed as either untimely or as a second or successive motion must be raised by a motion. A true

¹Rodriguez also filed an application/motion to proceed *in forma pauperis*. Mot. IFP, ECF No. 3. Because no filing fee is required to bring a § 2255 motion in district court, the motion should be denied. See *United States v. Gonzalez*, Nos. CR. C-05-424, C.A. 06-249, 2006 WL 2065182, at *2 (S. D. Tex. July 24, 2006) ("For purposes of filing fees, a motion filed under § 2255 is essentially a continuation of the defendant's criminal case") (citing *United States v. Cole*, 101 F.3d 1076 (5th Cir.1996) (noting that a § 2255 motion was not a civil action for purposes of the Prison Litigation Reform Act)). The Clerk is directed to note on the docket that the in-forma-pauperis application/motion (ECF No. 3) is DENIED as unnecessary.

²Such service shall be directed to the attention of the Criminal Section Habeas Attorney, United States Attorney's Office. See Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 3(b).